IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

W.A.No.1727 of 2006(C)

AGAINST THE JUDGEMENT IN W.P.(C).NO.1508/2005-D DATED 04/07/2006
.....

APPELLANT: PETITIONER:-

K.S.MENON, ADVOCATE,
PRAYAG, S.R.M. ROAD, COCHIN-18.

BY SRI.K.S.MENON (PARTY-IN-PERSON)

RESPONDENTS: RESPONDENTS:-
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1. THE AREA MANAER, SOUTHERN RAILWAYS, ERNAKULAM SOUTH.

2. SUPERINTENDENT, ERNAKULAM TOWN (NORTH),
RAILWAY STATION, ERNAKULAM.

3. COCHIN CORPORATION,
REPRESENTED BY SECRETARY, KOCHI, ERNAKULAM.

4. CITY POLICE COMMISSIONER, KOCHI, ERNAKULAM.

R1 & R2 BY STANDING COUNSEL SRI.ALEXANDER THOMAS.
R3 BY STANDING COUNSEL SRI.K.R.SUNIL.I
R4 BY SENIOR GOVERNMENT PLEADER SMT.MEERA.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1727 of 2006-C

Dated, this the 8th day of June, 2007

JUDGMENT

K.T.Sankaran,J.

The reliefs prayed for in the writ petition are the following:

> "**A.** Issue a writ of mandamus or other appropriate writ or order or direction directing the railway to close down the unauthorized entry to eastern side from E.S.I. Road near petitioner's house or to the remaining portion of E.S.I. Road.
>
> **B.** Direct the police to prohibit and take action against the unauthorized parking of Autoriksha and cars in the private land on the eastern side of E.S.I.Road".

2. An interim order dated 9.8.2005 was passed in the writ petition and on the basis of that interim order, survey of the land was conducted. The learned Single Judge held that it is open to the Railway and the Tahsildar, Kanayannur to take further proceedings in that regard in accordance with law.

3. As far as the reliefs prayed for in the writ petition are concerned, the learned Single Judge held that the jurisdiction under Article 226 of the Constitution cannot be exercised to grant the reliefs.

4. On going through the pleadings, the arguments of the party-in-person and after perusing the judgment of the learned Single Judge, we are of the view that there is no scope for our interference in the Writ Appeal. The contentions put forward by the appellant are all matters be

agitated before the civil Court having jurisdiction. A writ petition under Article 226 is not maintainable for the said reliefs.

The Writ Appeal lacks merits and it is, accordingly, dismissed.

Consequently, I.A.No.145 of 2007 is also dismissed.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-